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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,760	05/31/2001	Sean M. McCullough	VIGN1260-1	6413
25094	7590	12/27/2005	EXAMINER	
DLA PIPER RUDNICK GRAY CARY US, LLP			PATEL, ASHOKKUMAR B	
2000 University Avenue			ART UNIT	
E. Palo Alto, CA 94303-2248			PAPER NUMBER	
			2154	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,760

Applicant(s)

MCCULLOUGH, SEAN M.

Examiner

Ashok B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11 and 13-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22 are subject to examination. Claims 3 and 12 are cancelled.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/2005 has been entered.

Response to Arguments

3. Applicant's arguments with respect to claim 1 and 10 have been considered but are moot in view of the new ground(s) of rejection, however, Examiner would like to thank the Applicant for proving the following explanation "Additionally, the user identifier is associated with the user, such that when the same user "surfs" a network on the same or a different client computer the user identifier for this user identifier may be used to identify the user such that information related to the surfing user may be used to update or add to the user profile of the user. Thus, because a user identifier is associated with the user, as opposed to a particular machine, setting of a machine or geographic location, the user identifier may be used to update a user profile regardless of other aspects of how or where the user is using the network. Utilizing a user identifier associated with a user may allow user profiles to be generated for multiple users who

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access a network from the same machine, or a user who access the network from different IP addresses or geographic locations.”

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 9-11 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geller (US 6, 199, 067) in view of Applicant's Admitted Prior Art (AAPA) (paragraph [0026] of Specification)

Referring to claims 1 and 9,

Geller teaches a method of profiling a user (Figs. 1 and 2, col. 7, line 7-10,” Referring initially to FIG. 1, a profiling/search system 10 for automatically generating personalized user profiles and for utilizing the generated profiles to perform adaptive Internet or computer data searches is shown.”) comprising:

accessing first data including a first identifier associated with the user (col. 9, line 55 through col. 10, line 3, “The user profiling control program begins at a step 100 where the user's identity is verified by the control unit 14, for example by asking the user to provide a password or some form of a biometric identifier such as a fingerprint, a

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voice sample or a retinal image to the input device 20. At a test 102, the control unit 14 determines whether a User_Profile has been previously generated for the user. Because a particular local computer system 12 may be used by multiple users, a variety of User_Profiles, one for each individual user, may be stored in the storage memory 18 in a local profile database. In addition to, or instead of, the local profile database, User_Profiles may be stored in a remote central profile database located in a profile storage device 36, such as a storage memory device attached to a specific Internet host computer, in the remote data storage system 32."), network addresses accessed by the user (col. 12, line 13-21," At a step 114, the control unit 14 monitors the operation of the browser, such that when the user adds any Text_Item to the browser's "favorites" section, the control unit 14 automatically adds the Text_Item to User_Data. For example, if the user visits a web site and the user becomes interested enough in the site's material that the user adds the web site (Text_Item) to the favorites section of the browser, the control unit 14 adds the Text_Item to User_Data.", col. 4, line 49- col. 5., line 3), and temporal information related to the user identifier and the network addresses (col. 11, line 56- col. 12, line 12, At a step 112, the control unit 14 begins to monitor the user's browsing session initiated at the step 110 for the entire duration of the browsing session. If the user spends more than a pre-determined "M" period of time viewing a particular Text_Item, then the control unit 14 adds the Text_Item to User_Data--in effect by spending more that a particular period of time browsing a Text_Item, the user has adopted the Text_Item as one of the user's favorite textual items. Preferably, the control unit 14 accumulates a total duration of time Q that each

Text_Item is viewed by the user over a predetermined period P. If during the period P, Q exceeds the period M, then the control unit 14 adds the Text_Item to User_Data. The time period P is preferably 24 hours, but may be as long as one week, or longer. The period M may be one or more hours and is preferably set in accordance with the period P. Thus, for example, if P is set to 24 hours, M is preferably set between one to two hours, while if P is set to one week M may be set to five to ten hours. To illustrate the operation of the step 112, assuming P is set to 24 hours and M is set to two hours, if the user views a particular Text_Item for a total of two or more hours (viewing time Q is greater than M) during the 24 hour period, then the control unit 14 adds the viewed Text_Item to User_Data.”), wherein the first data is determined at a location remote from the user (Fig. 1, element 36);

generating a user profile based at least in part on the first identifier and at least some of the temporal information (Fig. 1, element 36).

Geller fails to teach accessing second data at a second location remote from the user and the network addresses, wherein accessing the second data further comprises sending at least some of the network addresses to the second location and receiving corresponding category information for each of the at least some network addresses, the corresponding category information including at least one meta tag, and accessing the second data comprises accessing the corresponding category information from a third-party source; and the corresponding category information includes meta tags for the network addresses, and generating a user profile including corresponding category information.

AAPA teaches " The data for the second table may reside in the storage device 18 or, alternatively, may reside within a database at an external location of a third party (not shown). For example, the second table may be part of the Netscape Open Directory Project or may be provided by Looksmart, Ltd. of San Francisco, California. Either of these third-party sources may provide a categorization of each Internet site. The categorization may be in the form of meta tags, which are metadata that correspond to the network addresses. Skilled artisans may realize that meta tags are used by search engines, such as Yahoo !, Lycos, Excite, and the like in performing user specified searches for information." (paragraph [0026] of Specification) (accessing second data at a second location remote from the user and the network addresses, wherein accessing the second data further comprises sending at least some of the network addresses to the second location and receiving corresponding category information for each of the at least some network addresses, the corresponding category information including at least one meta tag, and accessing the second data comprises accessing the corresponding category information from a third-party source; and the corresponding category information includes meta tags for the network addresses)

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to use AAPA's the readily available third party databases which are able to provide a categorization of each Internet site wherein the categorization includes meta tags in order to enhance the system of Geller such that user's top categories of interest can be determined by matching the meta tags of the

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web sites along with temporal, user's identifier and among other matching patterns as taught by Geller. It would have been obvious because the skilled artisans may realize that meta tags are used by search engines, such as Yahoo !, Lycos, Excite, and the like in performing user specified searches for information. (paragraph [0026] of Specification)

Referring to claim 2,

Geller teaches the method of claim 1, wherein generating the user profile comprises:

creating a table that includes a first column for user identifiers including the first identifier (col. 9, line 55 through col. 10, line 3), and a third column for the at least some of the temporal information(col. 9, line 55 through col. 10, line 3, Fig. 1, element 36);

comparing data for the user within the table to existing profiles including a first profile, and associating the user with the first profile. (col. 10, line 9-24).

Geller fails to teach creating a table that includes a second column for the corresponding category information.

AAPA teaches " The data for the second table may reside in the storage device 18 or, alternatively, may reside within a database at an external location of a third party (not shown). For example, the second table may be part of the Netscape Open Directory Project or may be provided by Looksmart, Ltd. of San Francisco, California. Either of these third-party sources may provide a categorization of each Internet site. The categorization may be in the form of meta tags, which are metadata that correspond to the network addresses. Skilled artisans may realize that meta tags are used by search engines, such as Yahoo !, Lycos, Excite, and the like in performing user

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specified searches for information.” (paragraph [0026] of Specification) (accessing second data at a second location remote from the user and the network addresses, wherein accessing the second data further comprises sending at least some of the network addresses to the second location and receiving corresponding category information for each of the at least some network addresses, the corresponding category information including at least one meta tag, and accessing the second data comprises accessing the corresponding category information from a third-party source; and the corresponding category information includes meta tags for the network addresses)

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to use AAPA's the readily available third party databases which are able to provide a categorization of each Internet site wherein the categorization includes meta tags in order to enhance the system of Geller such that user's top categories of interest can be determined by matching the meta tags of the web sites along with temporal, user's identifier and among other matching patterns as taught by Geller.

This would have been obvious because the skilled artisans may realize that meta tags are used by search engines, such as Yahoo !, Lycos, Excite, and the like in performing user specified searches for information. (paragraph [0026] of Specification).

Referring to claim 10,

Claim 10 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing

system to cause the data processing system to perform methods of claim 1. Therefore, claim 10 is rejected for the reasons set forth in above paragraph for claim 1.

Referring to claim 11,

Claim 11 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 2. Therefore, claim 11 is rejected for the reasons set forth in above paragraph for claim 2.

Referring to claim 18,

Claim 18 is a claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claim 9. Therefore, claim 18 is rejected for the reasons set forth in above paragraph for claims 1 and 9.

Referring to claims 19 and 20,

Geller teaches the method of claim 2, wherein comparing data for the user within the table to existing profiles includes performing click stream analysis (col. 11, line 56- col. 12, line 12), and wherein comparing data for the user within the table to existing profiles includes:

applying data mining rules to the data for the user to determine characteristics of the user; and comparing the characteristics of the user to characteristics included in the existing profiles. (Abstract Note: As it is known, data mining actually discovers useful patterns and relationships within data.)

Referring to claims 21 and 22,

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Claims 21 and 22 are claim to a data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claims 19 and 20. Therefore, claims 21 and 22 are rejected for the reasons set forth in above paragraph for claims 19 and 20.

6. Claims 4-8 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geller (US 6, 199, 067) in view of Applicant's Admitted Prior Art (AAPA) (paragraph [0026] of Specification) , further in view of Parekh et al. (hereafter Parekh) (US 6, 757, 740)

Referring to claims 4,5,6,7 and 8,

Keeping in mind the teachings of Geller and AAPA as indicated above, although teaches in col. 15, line 55-60, "At the step 222, the control unit 14 groups identical segments together into sets, counts the occurrence of identical segments in each set, and then records the number of identical segments in each set in User_Profile as User_Profile segment count (hereinafter "UP_SC") next to each set of identical segments.", and col. 23, line 57 through col. 24, line 8," For example, if the User_Profile contains the following segments, along with the UP_SCs in parentheses: (103) Joe-walk-beautiful (34), (104) Joe-walk-new (25), (105) computer-execute-advanced (10), (106) police-protect-watchful (8), (107) man-walk-happy (7),(108) computers-buy-expensive (3); (109) and the Search_Profile contained the following segments: (110) computer-execute-advanced, (111) computer-buy-expensive, (112) intelligence-compute-artificial; (113) then the RCS control unit 34 would determine two matches

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between the User_Profile and the Search_Profile--"computer-execute-advanced" and "computer-buy-expensive", and would retrieve the corresponding UP_SCs, 10 and 3, respectively." both of these references fail to explicitly teach selecting a first marketing information regarding an item, wherein selecting is based at least in part on the user profile; and sending the first marketing information to the user, and the method of claim 4, wherein: selecting is performed by a network access provider; and the first marketing information includes a banner advertisement that is to be displayed near a periphery of a view, and the method of claim 4, wherein: at least one of the network addresses corresponds to a network site is owned or controlled by a company that sells the item; and the first marketing information comprises an offer to sell the item., and the method of claim 4, wherein: selecting comprises selecting the first marketing information and a second marketing information; and the method further comprises applying a filter, wherein: the second marketing information is filtered out and the first marketing information passes; and applying the filter is performed before sending, and the method of claim 1, further comprising selling the user profile.

Parekh teaches the method of claim 1, further comprising:

selecting a first marketing information regarding an item, wherein selecting is based at least in part on the user profile; and
sending the first marketing information to the user (col.16, lines 46-57), and the method of claim 4, wherein: selecting is performed by a network access provider; and the first marketing information includes a banner advertisement that is to be displayed near a periphery of a view (col. 3, lines 36-41, "The web sites can selectively deliver content or

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advertising based on the geographic location of its visitors. The geographic location information can also be used in the routing of Internet traffic. A traffic manager associated with a number of web servers detects the geographic locations of its Internet visitors and routes the traffic to the closest server.”), and the method of claim 4, wherein: at least one of the network addresses corresponds to a network site is owned or controlled by a company that sells the item; and the first marketing information comprises an offer to sell the item. (col.16, lines 29-65), and the method of claim 4, wherein: selecting comprises selecting the first marketing information and a second marketing information; and the method further comprises applying a filter, wherein: the second marketing information is filtered out and the first marketing information passes; and applying the filter is performed before sending. (col.16, lines 29-65), and The reference teaches the method of claim 1, further comprising selling the user profile. (col.14, lines 22-26, “The geographic information can also be analyzed to effectively market the site to potential Internet site advertisers and external content providers or to provide media-rich content to users that have sufficient bandwidth.”, note: This implies that the user profiles are sellable.)

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to incorporate the teachings of Parekh along with AAPA into the system of Geller such that when the Geller’s user is looking for goods such as computer as shown in the user’s search pattern in col. 23, line 57 through col. 24, line 8, the marketing information regarding the computer based on the user’s profile can be sent to the user.

This would have been obvious because Geller offers that the research has shown that such factors as psychological profile, life experience, profession, socioeconomic status, educational background, etc. contribute to determining the frequency of occurrences of particular linguistic patterns within the user's written expression.

Referring to claims 13, 14,15,16 and 17,

Claims 13, 14,15,16 and 17 are claims to data processing system readable medium having code embodied therein, the code including instructions executable by a data processing system to cause the data processing system to perform methods of claims 4,5,6,7 and 8. Therefore, claim 13 is rejected for the reasons set forth in above paragraph for claims 4,5,6,7 and 8.

Conclusion

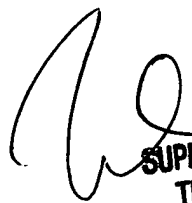
Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp

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